

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

TIMOTHY LEE BEATY

PLAINTIFF

v.

CIVIL ACTION NO. 1:18-CV-215-RP

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

FINAL JUDGMENT

Plaintiff Timothy Lee Beaty filed suit under 42 U.S.C. § 1383(c) for judicial review of the unfavorable decision of the Commissioner of Social Security regarding an application for supplemental security income. Docket 1. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provision of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. Docket 10. The Court, having considered the record, the administrative transcript, the briefs of the parties, and the applicable law, finds as follows:

The Commissioner's decision is not supported by substantial evidence because the hypothetical question posed to the vocational expert did not "incorporate reasonably all disabilities of the claimant recognized by the ALJ" as required by *Bowling v. Shalala*, 36 F.3d 431, 436 (5th Cir. 1994). Whereas the ALJ assigned a light RFC with no overhead reaching, the hypothetical question posed to the VE and upon which the ALJ ultimately relied contained a sedentary RFC with a limitation to frequent reaching and no overhead reaching. The court lacks confidence that the plaintiff is capable of performing the jobs that were identified by the VE in response to a hypothetical containing a different RFC than that assigned to the plaintiff by the ALJ.

The Commissioner's decision is reversed and remanded for further proceedings consistent with this Order.

SO ORDERED, this the 1st day of August, 2019.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE